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Customer No.: 31561  
Application No.: 10/604,882  
Docket No.: 9700-US-PA

**REMARKS****Present Status of the Application**

Claims 10-13 are pending of which claims 10 and 13 have been amended. Claims 1-9 has been withdrawn and now currently cancelled. Support for Amendments to claim 10 can be found in Figures 4D-4E. Therefore, it is believed that no new matter adds by way of amendments to claims or otherwise to the application. For at least the following reasons, Applicants respectfully submit that claims 10-13 patently define over prior art of record and reconsideration of this application is respectfully requested.

**Discussion of Objections to Specification**

1. *The Office Action objected to the specification because the title should be "Flash Memory". Appropriate correction is required.*

In response thereto, Applicants would like to thank the Examiner for pointing out the informality and accordingly amended the Title of the invention. Reconsideration is respectfully requested.

**Discussion of Objections to Claims**

2. *The Office Action objected to claim 13 because the phrase "both sides of the conductive layer without the conductive spacer" is confusing. Appropriate correction is required.*

In response thereto, Applicants have amended claim 13 in better clarity, which can also be understood in FIGs. 3E, 4E, 5E. The conductive layer 212a has first both sidewalls

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having the spacer 218a and second both sidewalls having no spacer. The S/D 226, 228 are located at the second both sidewalls of the conductive layer 212a.

**Discussion of the claim rejection under 35 USC 102**

3. *The Office Action rejected claims 10-13 under 35 USC 102(b) as being anticipated by Ding et al. (US-6,171,909, hereinafter Ding).*

Applicants respectfully disagree and traverse the above rejections of the Examiner as follows.

Applicants respectfully submit that the independent claim 1, as amended, is allowable for at least the reason that Ding fails to teach or disclose every features of the amended proposed independent claim 10. More specifically, Ding fails to teach or disclose a structure of a flash memory comprising at least [a conductive spacer disposed on both sidewalls of the patterned conductive layer, wherein a top surface of the conductive spacer and a top surface of the patterned conductive layer are located at a same level] as required by the amended proposed independent claim 10. *The advantage of the above structure is that at least the corner contour of the gate can be rendered smooth (without sharp right angled corners) so that leakage of data stored in the (floating) gate can be effectively reduced.*

Instead, Ding, in FIG. 11, substantially shows that the top surface of conductive spacer 120a is substantially higher than the top surface of the gate structure 104. Therefore, it is clear that Ding substantially fails to teach or disclose at least [a conductive spacer disposed on both sidewalls of the patterned conductive layer, wherein a top surface

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of the conductive spacer and a top surface of the patterned conductive layer are located at a same level] as required by the amended claim 10. Therefore, Ding cannot possibly anticipate the amended claim 1 in this regard.

Furthermore, in Ding, because the top surface of conductive spacer 120a is substantially higher than the top surface of the gate structure 104 the gate structure, sharp corners (with right angle) will be formed at both the top portion of the conductive spacer 120a, and at the interface between the top surface of the gate 104 and the conductive spacer 102a (as shown in Figure 1I), and therefore, according to the present inventors, the stored data stored in the floating gate may leak out through these sharp corners. Therefore, Ding cannot meet the claimed invention in this regard.

Claims 11-13, which directly depend from claim 10, are also patentable over Ding at least because of their dependency from an allowable base claim.

For at least the above reasons, it is therefore submitted that claims 10-13 patently define over Ding and therefore claims 10-13 should be allowed. Reconsideration and withdrawal of these rejections is respectfully requested.

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CONCLUSION

For at least the foregoing reasons, it is believed that all the pending claims 10-13 of the present application patently define over the prior art and are in proper condition for allowance. If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

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Respectfully submitted

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